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August 22, 2008

Hon. Judith G. Dein
United States Magistrate Judge
United States District Court
District of Massachusetts
1 Courthouse Way
Boston, MA 02210

Re: *Waters v. Ayer, et al.*, No. 04 CV 10521 (GAO)(JGD)

Dear Judge Dein:

In reviewing the record for the summary judgment arguments scheduled before the Court on Thursday, August 28, two issues have come to my attention that need correcting. I have conferred with defense counsel, Ms. Austin, who informs me that lead defense counsel, Mr. Tehan, is unavailable to review this application today, and will likely not get to it before Tuesday, but that he will advise the Court of his position as soon as possible thereafter.

First, two inadvertent citation errors in plaintiff's Statement of Disputed Facts ("SDF," Doc. 170) should be changed: In Paragraph 139, the citation to Exhibit 70 should instead be to Exhibit 69, and in Paragraph 332, the citation to Exhibit 78 should instead be to Exhibit 33.

In addition, three pages from Exhibit 35 which were referenced both in the SDF and in plaintiff's briefs were inadvertently not included in the Exhibit, but are filed as a proposed supplement to Exhibit 35 herewith:

- 1) a September 21, 1982 letter from Ms. Taylor to the Ayer Board of Selectmen (20), cited and quoted in SDF ¶ 133;
- 2) an October 14, 1982 Memorandum from Chief Connors to Ms. Taylor (24), cited in SDF ¶ 135; and

- 3) a June 28, 1983 letter of commendation from Middlesex County Assistant District Attorney Elizabeth Fahey to Ms. Taylor (B258), cited in SDF ¶¶ 140, 235.

Each of these three pages was produced to the plaintiff by the defense in discovery; there would be no prejudice to the defense were the Court to consider them.

Please accept our apologies for these inadvertent errors and accept these corrections.

Respectfully submitted,



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Betty Anne Waters

cc: Jay Tehan, Esq.
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